

ORIGINAL



RECEIVED

BEFORE THE ARIZONA CORPORATION COMMISSION

2003 NOV -4 P 4: 38

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

AZ CORP COMMISSION  
DOCUMENT CONTROL

NOV 04 2003

MARC SPITZER, Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
MIKE GLEASON  
KRISTIN K. MAYES

DOCKETED BY

IN THE MATTER OF THE INVESTIGATION  
OF THE COST OF TELECOMMUNICATIONS  
ACCESS

DOCKET T-00000D-00-0672

**COMMENTS OF THE ARIZONA LOCAL EXCHANGE CARRIERS ASSOCIATION  
REGARDING BIFURCATION OF THIS DOCKET AND THE COMMISSION'S  
AUTHORITY TO ORDER CHANGES IN ACCESS CHARGES IN THIS DOCKET**

At the procedural conference held in this docket on October 14, 2003, the Administrative Law Judge asked interested parties in this docket to file written comments regarding (i) whether this proceeding should be bifurcated into two separate phases, with the access rates of Qwest Corporation considered in the first phase and the access rates of all other incumbent local exchange carriers considered in the second phase; and (ii) whether the Arizona Corporation Commission has the authority to order lower access charges in this generic docket. In response to the ALJ's request, the Arizona Local Exchange Carriers Association ("ALECA") submits the following comments.

**I. BIFURCATION OF THE PROCEEDING IS APPROPRIATE**

ALECA<sup>1</sup> strongly urges the Commission to bifurcate this docket and proceed in two serial phases because the variables and impacts that must be addressed in considering a reduction in

<sup>1</sup> Those members of ALECA concurring in and supporting such comments are as follows: CenturyTel, Inc., Citizens Communications (representing Frontier Citizens Utilities Rural, Frontier Communications of the White Mountains and Navajo Communications, Inc.), Fort Mojave Telephone Company, Gila River Telecommunications, Midvale Telephone Exchange, Inc., San Carlos Apache Telecommunications Utility, Inc., South Central Communications, TDS Telecom (representing Arizona Telephone and Southwestern Telephone), Tohono O'dham Utility Authority, Table Top Telephone Company, Inc. and Valley Telephone Cooperative (also representing Copper Valley Telephone, Inc.)

1 Qwest access rates are distinctly different than those that must be addressed in considering a  
2 reduction in the access rates of the various independent local exchange carriers. Access revenues  
3 make up a significantly higher portion of the total revenues of the independent carriers. In  
4 addition, average loop costs for the independent carriers--which serve largely rural areas in  
5 Arizona--are significantly higher than Qwest. Thus, the potential impact of access rate reductions  
6 on the independent carriers is substantially greater than in the case of Qwest--a key difference.

7 Moreover, in a proceeding which combines the review of Qwest rates and those of the  
8 independent carriers, the dissimilarities between Qwest and the independent carriers may not  
9 receive adequate attention. Bifurcation is necessary to focus the parties' attention on these  
10 dissimilarities in evaluating the access rates of the independent carriers.

11 From a more practical standpoint, the aggregation of access rates paid by interexchange  
12 carriers to Qwest is enormously higher than the aggregation of access rates paid to all of the  
13 independent carriers combined. A review of the access rates of each of the independent carriers  
14 would certainly delay a final decision on Qwest's access rates. In addition, requiring the  
15 independent carriers to participate in a consolidated proceeding, as compared to a phased  
16 proceeding, would likely require these companies to needlessly incur additional costs. For each  
17 of these reasons, ALECA strongly urges the ALJ to bifurcate this docket into two phases, with a  
18 review of the Qwest access rates proceeding in the first phase and a review of the access rates of  
19 the independent carriers proceeding in the second phase.

20 **II. THE COMMISSION IS WITHOUT AUTHORITY TO CHANGE ACCESS**  
21 **RATES IN THIS GENERIC DOCKET**

22 ALECA believes that *Scates v. ACC*, 118 Ariz. 531, 578 P.2d 612 (1978) prohibits the  
23 Commission from ordering a change in incumbent carrier access rates in this generic docket.  
24 *Scates* holds that the Commission must make a finding of "fair value" regarding a utility's rate  
25 base when setting rates and charges for service. *Id.* at 534, 578 P.2d 615. Since there will be no  
26 finding of fair value rate base in this generic docket, the Commission is without authority to order

1 a change in access rates in this docket.

2 However, ALECA understands the comments voiced by AT&T at the October 14, 2003,  
3 procedural conference that a general review of incumbent access rates must begin someplace, and  
4 the fact that the Commission is without authority to order changes to access rates in this generic  
5 docket should not stop the review from moving forward. As set forth above, ALECA does not  
6 object to a two-phased process (with Qwest going first) to consider generally whether the access  
7 rates of Qwest and the independent carriers should be adjusted.

8 **III. THE COMMISSION SHOULD ADDRESS REVISIONS TO THE**  
9 **ARIZONA UNIVERSAL SERVICE FUND BEFORE CHANGES IN**  
10 **ACCESS RATES OF THE INDEPENDENT CARRIERS CAN BE**  
11 **ADDRESSED**

12 As set forth above, ALECA believes that *Scates* prohibits the Commission from ordering  
13 changes in access rates in this generic docket. However, ALECA also believes that it would be a  
14 burdensome and wasteful exercise to require rate cases for each of the carriers in order to effect  
15 revisions to access rates which may be recommended as a result of this docket. Instead, ALECA  
16 submits that the Commission should complete its work in the Arizona Universal Service Fund  
17 ("AUSF") Docket (RT-00000H-97-0137) and adopt revisions to Arizona's Universal Service  
18 Fund rules which would provide a streamlined mechanism--consistent with the requirements of  
19 Scates--for carriers to address any revenue deficiencies caused by a reduction in access rates and  
20 revenues which may result from this docket. ALECA proposes that such revisions to the AUSF  
21 rules be completed prior to the commencement of the second phase of this docket, should the ALJ  
22 adopt a two-phased approach.


23 **IV. CONCLUSION**

24 For the reasons state above, ALECA urges that this proceeding be bifurcated into two  
25 phases, with a review of Qwest access rates proceeding in the first phase and a review of the  
26 access rates of the independent carriers proceeding in the second phase. ALECA also urges that  
the Commission complete its review and implementation of revisions to the AUSF rules before

proceeding with the second phase of this docket.

RESPECTFULLY submitted this 4th day of November, 2003.

SNELL & WILMER

  
Jeffrey W. Crockett, Esq.

Jason Vanacour, Esq.

One Arizona Center

Phoenix, Arizona 85004-2202

Attorneys for Arizona Local Exchange  
Carriers Association

ORIGINAL and thirteen (13) copies  
filed with Docket Control this 4th  
day of November, 2003.

COPIES of the foregoing hand-delivered  
this 4th day of November, 2003, to:

Dwight Nodes, Administrative Law Judge  
Hearing Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

Maureen Scott, Staff Attorney  
Legal Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

Ernest Johnson, Director  
Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 West Washington Street  
Phoenix, Arizona 85007

- 1 COPY of the foregoing mailed  
this 4th day of November, 2003, to:
- 2
- 3 Scott Wakefield, Chief Counsel  
RESIDENTIAL UTILITY CONSUMERS OFFICE  
2828 North Central Avenue
- 4 Suite 1200  
Phoenix, Arizona 85004-1022
- 5
- 6 Timothy Berg, Esq.  
Theresa Dwyer, Esq.  
FENNEMORE CRAIG  
3003 North Central Avenue
- 7 Suite 2600  
Phoenix, Arizona 85012
- 8
- 9 Richard Wolters  
AT&T  
1875 Lawrence Street
- 10 Suite 1503  
Denver, Colorado 80202
- 11
- 12 Michael Patten  
ROSHKA, HEYMAN & DEWULF  
400 E. Van Buren Street, Suite 800
- 13 Phoenix, Arizona 85004
- 14
- 15 Brian Thomas  
TIME WARNER TELECOM, INC.  
223 Taylor Avenue N
- 16 Seattle, Washington 98109
- 17
- 18 Eric Heath  
SPRINT COMMUNICATIONS  
100 Spear Street, Suite 930
- 19 San Francisco, California 94105
- 20
- 21 Curt Huttzell  
CITIZENS COMMUNICATIONS  
4 Triad Center, Suite 200
- 22 Salt Lake City, Utah 84180
- 23
- 24 Steven J. Duffy  
RIDGE & ISAACSON PC  
3101 N. Central Avenue
- 25 Suite 1090  
Phoenix, Arizona 85012-1638
- 26

1 Thomas H. Campbell, Esq.  
2 Michael T. Hallam, Esq.  
3 LEWIS & ROCA  
4 40 N. Central Avenue  
5 Phoenix, Arizona 85004

6 

7 VANAC0JPHX\1428410.2  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26